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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:
Michael Cohen

Serial No.: 10/685,377

Filed: October 13, 2003

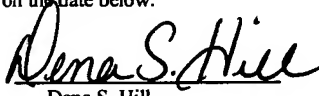
For: MODULAR ARMORED
VEHICLE SYSTEM

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Group Art Unit: 3641

Examiner: Michelle Clement

Atty. Dkt.: 6658-109XX/10313085

CERTIFICATE OF MAILING 37 C.F.R. §1.10	
I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail No.: <u>EV708618500US</u> in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below:	
<u>January 4, 2006</u> Date	 Dena S. Hill

APPELLANTS' REPLY TO EXAMINER'S ANSWER



PATENT

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Mail Stop: APPEAL BRIEF - PATENTS

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

Sir:

Appellants hereby submit an original and two copies of this Reply Brief in response to the Examiner's Answer dated November 4, 2005. The deadline for filing this Reply is January 4, 2005. It is believed that no fees are due in connection with this paper; however, should any fees be due the Commissioner is authorized to withdraw the appropriate fees from Fulbright & Jaworski Deposit Account No. 50-0337/6658-109/10313085.

Please date stamp and return the enclosed postcard to evidence receipt of this document.

1. This Reply Brief is in response to the Examiner's Answer mailed November 4, 2005.

2. In paragraph 6 of Examiner's Answer, Examiner states that the issue regarding the Amendment filed 11/11/04 adding Figures 3 and 4 and the accompanying description being new matter is petitionable subject matter and not appealable subject matter. Appellant respectfully submits that where the alleged new matter affects the claims necessitating their rejection on this ground the question becomes an appealable one and should not be considered on Petition even though the alleged new matter has been introduced into the specification. Examiner rejected the claims for failure to disclose all elements therein in response to which the alleged new matter was submitted. Such rejection affects the patentability of the claims. Thus, Appellant respectfully submits that Examiner's Summary Dismissal of this issue is improper.

3. In paragraph 9 of Examiner's answer, the Examiner states on page 3 that "although Cohen does not specifically disclose armored combat vehicle chassis having a plurality of openings, Middione, et al. does." This statement is the basic premise upon which the Examiner in his answer is basing his entire position in the Answer and this premise is simply incorrect.

4. Appellant's claims are all directed to "an armored combat vehicle chassis having a plurality of openings." (emphasis added) A chassis is defined as "the underpart of an automobile, consisting of the frame with the wheels and machinery." Applying that definition to Appellant's invention, the chassis is the underpart of the armored combat vehicle consisting of the frame with the wheels and machinery. It is this underpart (the chassis) which defines the plurality of openings and to which the plurality of composite armored plates are attached. Examiner in referring to the teachings of Middione, et al., it is respectfully submitted, is substituting the armored vehicle hull of Middione for the chassis as specifically claimed by Appellant. For example, on page 5 of the Examiner's answer it is stated "The reliance on the Middione, et al. reference is for an armored combat vehicle chassis having a plurality of openings, it is the armor disclosed by Cohen that is combined with the armored combat vehicle chassis having opening as taught by Middione, et al. It is noted that armored combat vehicles have openings other than screw hole openings, it is ANY opening of the vehicle, including windows, port holes, doors, ammunition chutes etc., that could be covered by the armored plate

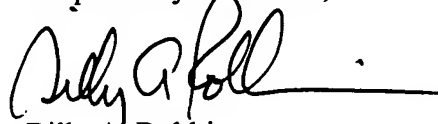
disclosed by Cohen.” Middione, et al., does not disclose a vehicle chassis. Appellant respectfully submits that windows, portholes, doors and the like are mounted on structure added to the chassis and not on the chassis itself. Thus, Middione et al. does not teach a chassis having a plurality of openings, as urged by Examiner, and instead, teaches a vehicle upon which the structural armor has been mounted. Middione et al. does not teach any openings in anything. Examiner’s statement, as above quoted, that Middione et al. teaches an armored combat vehicle chassis having a plurality of openings is absolutely incorrect. Middione, et al. does not teach the vehicle chassis having the plurality of openings as is claimed by Appellant, but rather teaches the armored combat vehicle with the structural armor in place. Appellant respectfully submits that Examiner is focusing on the plate component of the claimed system and has failed to give due cognizance to the feature that the system includes an armored combat vehicle chassis having a plurality of openings which chassis openings are covered by the plates of the present invention thereby eliminating the need to mount initial heavy structural armor on the chassis but rather providing a lightweight chassis that can be easily moved from spot to spot and when such is needed the armor plates may be attached for protection of the vehicle and its occupants.

5. Appellant also respectfully submits that the only openings which the vehicle of Middione et al. discloses in figures 2, 4 and 5 and the accompanying written material are the blind tapped screw holes specifically referred to by Examiner in the final Office Action and that such screw holes do not conform to the general teaching of Appellant’s disclosure. The only manner in which the additional openings referred to by Examiner in his answer can be found are by referring to Appellant’s disclosure which is improper. Neither Middione et al. nor any of the additional references discloses the armored combat vehicle chassis having a plurality of openings therein as is specifically claimed in the claims under consideration.

6. Appellant respectfully submits that there is no suggestion/motivation contained or hinted at in Cohen, Middione, et al., Ferguson or Slater taken separately or together of the structure as defined by Appellant’s claims on appeal herein.

7. Appellant again respectfully submits that claims 1 through 14 define patentable subject matter and respectfully request that this honorable Board reverse the Examiner's final rejection of lines 1 through 14.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Billy A. Robbins", with a long horizontal line extending to the right.

Billy A. Robbins

Reg. No. 18,313

Attorney for Appellants

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Date: January 4, 2006